

EXHIBIT 31

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PHILLIP PICONE, (Civil Action No. 4:23-cv-1206
((Jury Trial)
Plaintiff,)(
)(
)(
)(
)(
V.)(
)(
OFFICER ANCIRA, et al.,)(
)(
Defendants.)(

DECLARATION OF PLAINTIFF PHILLIP PICONE

1. My name is Phillip Picone and I am over 21 years old.
2. I am the Plaintiff in the above titled and numbered cause.
3. I have never been convicted of a felony or a crime of moral turpitude.
4. On the evening of Friday, March 3rd, 2023, I was a member of Food

Not Bombs Houston (FNBH) and I went to the Central Houston Public Library Plaza in downtown Houston to meet up with other FNBH members to share high-quality vegetarian and vegan food with some of the City of Houston's citizens who are experiencing poverty or homelessness which I had been doing since October 2011. Our usual schedule was Monday, Wednesday, Friday, and Sunday at around 7:30 PM.

5. I grew up in a devout Catholic family, where I regularly attended and participated in church services, including as an altar boy, and I attended Catholic school all the way through his secondary education, after which I ultimately attended the Catholic University of St. Thomas Houston.

6. Due to my devout upbringing and education, the values and ethos of the Catholic faith are deeply ingrained in who I am as a person and helps to guide my actions and decisions.

7. The Bible contains numerous passages which extoll the virtues of sharing food and resources with the hungry and poor, including this small sample of passages from the New Revised Standard Version Catholic Edition:

Psalm 146 vv. 5, 7 – Happy are those . . . who execute[] justice for the oppressed; who give[] food to the hungry.

Tobit 1:16–17 – In the days of Shalmaneser I performed many acts of charity to my kindred, those of my tribe. I would give my food to the hungry and my clothing to the naked.

Tobit 4:15–16 – And what you hate, do not do to anyone. Do not drink wine to excess or let drunkenness go with you on your way. Give some of your food to the hungry, and some of your clothing to the naked. Give all your surplus as alms, and do not let your eye begrudge your giving of alms.

Proverbs 25:21 – If your enemies are hungry, give them bread to eat; and if they are thirsty, give them water to drink.

Isaiah 58:10–11 – if you offer your food to the hungry and satisfy the needs of the afflicted, then your light shall rise in the darkness and your gloom be like the noonday. The LORD will guide you continually, and satisfy your needs in parched places, and make your bones strong; and you shall be like a watered garden, like a spring of water, whose waters never fail.

Ezekiel 18:15–17 – Who does not . . . wrong anyone, exacts no pledge, commits no robbery, but gives his bread to the hungry and covers the naked with garment, withholds his hand from iniquity . . . he shall surely live.

Matthew 25:34–36 – Then the king will say to those at his right hand, “Come, you that are blessed by my Father, inherit the kingdom prepared for you from the foundation of the world; for I was hungry and you gave me food, I was thirsty and you gave me something to drink, I was a stranger and you welcomed me, I was naked and you gave me clothing, I was sick and you took care of me, I was in prison and you visited me.”

Romans 12:19–21 – Beloved, never avenge yourselves . . . for it is written . . . “if your enemies are hungry, feed them; if they are thirsty, give them something to drink. . . .” Do not be overcome by evil, but overcome evil with good.

8. I also share food with more than five homeless and less fortunate people at a time in many places in North Houston and Spring Branch at many different times of the day on any day of the week including at between noon and five o'clock since 2016. My religious beliefs move me to share food whenever I see the need not only at specific times and places. One might say as the spirit moves me.

9. My sharing of food at the library and at other places and times throughout Houston is an expression of my religion.

10. FNBH is a collection of anti-poverty, anti-food waste, and anti-war volunteers that recover high-quality vegetarian and vegan food, and share that food with those experiencing poverty and homelessness; their stated agreements and vision are as follows:

We, participants in Food Not Bombs Houston (FNBH), agree;

1. to use sharing of free food, exchange of information, and dialogue as a means of promoting social justice, cultural exchange, horizontal organizing, and mutual aid
2. not to use or tolerate sexual, racial, or any other form of harassment, authoritarianism, assault, or threat thereof in conjunction with FNBH
3. to bring only vegan (containing no animal products) or ovo-lacto freegan (may contain dairy or egg, but obtained for free) food that is safe for consumption, and to indicate any non-vegan ingredients
4. to respect each other's privacy and views, to try to contribute constructively to the group, and to refrain from disparaging the contributions of others
5. not to sell food or otherwise profit from any kind of donations given to FNBH
6. not to represent our personal viewpoints as viewpoints of FNBH, or make decisions on behalf of FNBH
7. to establish a group decision before: inviting the media to FNBH sharings, giving interviews as a FNBH volunteer, giving the media names or any other information about those coming to share or eat (everyone can choose whether or not to speak for themselves)
8. to act in a friendly and calm manner when police visit FNB, and to explain to officers that we are just trying to help people
9. to encourage each other to call for a circle at any meal sharing to make proposals, work on group decisions, or raise concerns, including those about individuals not respecting these agreements

Vision

If we were to spend the amount of money we spend on weaponry on feeding the homeless. We could eliminate the homeless problem the world over. Poverty is a form of violence. We often assume that poverty is inevitable for some people, but with the surplus of food in this country alone, no one should have to go hungry. Poverty is, instead, a way of maintaining the status quo in a society. If everyone had equal access to the necessities of life, as well as equal opportunity to education, work, etc., some very powerful people would suddenly find themselves with a little bit less due to the fact that they no longer control such a large piece of the economic pie. As an organization, Food Not Bombs simply tries to redistribute a tiny portion of the wealth (in this case, food) that so many seem to not want to give up. The name "Food Not Bombs" means just that. With so many people at home and abroad going hungry, and so much of our wealth controlled by so few, and

going towards such terrible things as weaponry, it's insane to assume that we can't redistribute some of that wealth to those who need it.

International Food Not Bombs Mission Statement

Food Not Bombs recovers and shares free vegan or vegetarian food with the public without restriction in over 1,000 cities around the world to protest war, poverty and the destruction of the environment. Each group is independent and invites everyone to participate in making decisions for their local chapter using the consensus process. Food Not Bombs is dedicated to taking nonviolent direct action to change society so no one is forced to stand in line to eat at a soup kitchen expressing a commitment to the fact that food is a right and not a privilege. With over a billion people going hungry each day how can we spend another dollar on war?¹

11. I agree with the agreements and vision in paragraph 10.

12. My food sharing at the library and elsewhere at any day or time of the week is an expression of the agreements and vision in paragraph 10.

13. Despite the Anti-Food Sharing ordinance being in effect for around 10 years and despite I had been sharing food with more than five people outside in Houston for many years and despite coming in contact with many Houston police when feeding I never received a ticket for feeding until the evening of Friday, March 3rd, 2023, when HPD Officer Ancira issued me a ticket for violating Houston's Anti-Food Sharing Law. The only other ticket I am aware of was when FNBH member Benjamin Craft-Rendon received a ticket on March 1, 2023, as I was present. This was the first ticket any FNBH member had received at the library.

14. In all the years I shared food not one single person ever complained they got sick from the food we shared nor did I hear of anyone getting sick.

15. When I received the ticket it was my understanding I was subjected to a maximum fine of \$2000.00.

16. After receiving the ticket it made me very anxious and concerned and caused me to not show up for two weeks at the library. I also limited the amount of times I would feed elsewhere due to fear of getting another ticket or arrested. It is my understanding in Texas you can be arrested for Class C misdemeanors. It still makes me anxious and nervous when I go out and feed the homeless.

17. I was required to show up in a Houston municipal court twice for resets and then for a trial.

¹ This statement was retrieved on March 29th, 2023, and can be found at FNBH's website: <https://houstonfoodnotbombs.org/about/>.

18. After I was ticketed the Houston police have continued handing out tickets every week.

19. The people with whom I and FNBH share food are experiencing poverty or homelessness, there are numerous food banks, charities, and shelters from which those individuals can, and often do, acquire food; their decision to share food with FNBH is driven by preference.

20. The Anti-Food-Sharing law was passed in July 2012 when Annise Parker was mayor. Shortly after this ordinance was passed, however, Mayor Parker provided an additional policy clarification “Mayor Annise Parker has designated the Central Houston Public Library Plaza, 500 McKinney, Houston 77002, as an approved charitable food service location for Food Not Bombs.”

21. The FNBH food sharing events in which I participated in have been orderly, and any potential conflicts were identified and de-escalated by the participating community and did not require police intervention; the event on March 3, 2023, was no different.

22. Despite the clear and explicit permission by the Mayor, officers from the Houston Police Department (HPD) have regularly been present at FNBH food sharing events (including those that I attended) since the passage of the ordinance, although they had not previously given out tickets or made any arrests under the ordinance until the days leading up to my ticket on March 3rd, 2023, when I was sharing food alongside other FNBH volunteers, he did not direct or manage the sharing of food in any way from an operational perspective, nor did he direct, manage, lead, or otherwise command any of the other volunteers or their actions.

23. I declare, certify, verify, and state under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATE:

1/8/2024

, 2024

DocuSigned by:

Phillip Picone
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PHILLIP PICONE, declarant